

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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GENE ALLEN,

Case No. 3:23-cv-00076-MMD-CLB

Petitioner,

ORDER

v.

STATE OF NEVADA, *et al.*,

Respondents.

Petitioner Gene Allen, a *pro se* Nevada prisoner, has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* ("IFP"). He submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1) under 28 U.S.C. § 2254, but he did not pay the \$5 filing fee or submit an IFP application.

Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. The Court may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if the prisoner submits an IFP application on the approved form and includes three specific documents: (a) the prisoner's financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner's account statement for the six-month period prior to filing. See 28 U.S.C. § 1915(a); LSR 1-1; LSR 1-2.

Petitioner will have 45 days from the date of this order to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

Turning to the petition, Petitioner did not submit his petition (ECF No. 1-1) on the correct form. A *pro se* petitioner is required to file his petition for writ of habeas corpus under 28 U.S.C. § 2254 on the court's approved form. See LSR 3-1; Habeas Rule 2(d).

1 of the Rules Governing Section 2254 Cases in the United States District Courts. The form
2 is important as it provides the Court with necessary information to conduct preliminary
3 review of the petition. Accordingly, Petitioner must, within 45 days of the date of this order,
4 file a petition for habeas corpus relief on the Court's form.¹ In doing so, Petitioner is
5 advised to follow the instructions on the form and to refrain from lengthy legal or factual
6 arguments.

7 Petitioner must place the case number, 3:23-cv-00076-MMD-CLB, in the
8 designated space. The petition must be complete in itself without reference to previously
9 filed papers. Thus, the claims and allegations that are stated in the petition will be the
10 only matters remaining before the Court. Any claims or allegations that are left out of the
11 petition or that are not re-alleged will not be considered.

12 It is therefore ordered that the initial screening of the Petition for Writ of Habeas
13 Corpus (ECF No. 1-1) under the Rules Governing Section 2254 Cases is deferred to until
14 such time as Petitioner has fully complied with this order.

15 The Clerk of Court is directed to send Petitioner (1) a blank form for writ of habeas
16 corpus under 28 U.S.C. § 2254 with instructions, (2) a blank form IFP application for
17 incarcerated litigants along with instructions, and (3) a copy of this order.

18 It is further ordered that, within 45 days of the date of this order, Petitioner must
19 file an IFP application that includes a: (a) financial certificate signed by Petitioner and an
20 authorized prison official, (b) financial declaration and acknowledgement signed by
21 Petitioner, and (c) copy of Petitioner's inmate account statement for the six-month period
22 prior to filing. Alternatively, Petitioner must pay the \$5 filing fee within 45 days. If Petitioner
23 decides to pay the filing fee from his inmate account, he must arrange to have a copy of
24 this order attached to the check for the filing fee.

25 It is further ordered that Petitioner must file a petition on the Court's form within 45
26 days. Petitioner must place the case number, 3:23-cv-00076-MMD-CLB, in the
27

28 ¹Petitioner at all times remains responsible for calculating the applicable statute of
limitations. By ordering Petitioner to amend his petition, the Court makes no finding or
representation that either the original or amended petition will be considered timely.

1 designated space.

2 It is further ordered that Petitioner's failure to comply with this order within 45 days
3 by (a) filing an amended petition, and either (b) submitting a complete IFP application, or
4 (c) paying the filing fee will result in the dismissal of this action without prejudice and
5 without further advanced notice.

6 DATED THIS 1st Day of March 2023.

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9 MIRANDA M. DU
10 CHIEF UNITED STATES DISTRICT JUDGE
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